

Amendments to the Drawings:

Replace the drawing sheet(s) of record with the replacement drawing sheet filed herewith. Each replacement sheet is labeled as such. Additional mark-up sheets showing the changes to Figs. 5 and 7 of the original figures are also filed herewith for the Examiner's convenience. The other replacement sheets of drawings merely adjust the grayscale shading therein to make the drawings more visually clear without adding new matter.

R E M A R K S

Claims 1-11 are in the case. Claims 10 and 11 are new.

Amendments to the Specification

Amendments to the Specification have been made to address the Examiner's objections to, and adopt the Examiner's suggestions for, paragraphs 3, 13, 34 and 66. Paragraphs 0059 and 0061 are amended to correct obvious typographical/grammatical errors as relates to the word "show," now changed to read --- shown ---. Paragraph 0062 did not appear to have the error noted by the Examiner on page 2 of the Office Action, but paragraphs 0059 and 0061 did include those errors, and they have now been addressed. Amendments to Figs. 5 and 7 have been made merely to address the Examiner's objection and to adopt the suggestions made by the Examiner.

In addition, paragraph 0001 and the cross-reference to related applications has been deleted, as this paragraph is not in fact a cross-reference to applications related to the present application by priority claim or otherwise, but is rather a list of prior art references placed in the specification by error when the Applicant represented himself at the filing date of this application. As such, these references are being, or will be, cited in an Information Disclosure Statement and should not be restated in the specification as "related," when they are not.

Amendments to the Claims

All of the claims have been amended to either place the claims into better form or to overcome rejections by the Examiner, as will now be discussed in greater detail.

Response to Rejection Under Section 112

The claims have been amended to address the Examiner's section 112 rejections without adding new matter. The amendments largely adopt the Examiner's suggestions made with respect to the section 112 rejections. With respect to section (e) of Claim 9, the amendment is believed to overcome the Examiner's rejection with respect to that section of the claim by clarifying the claimed subject matter. Support for these amendments exist at least at paragraphs 0028, 0029 and 0064, and Fig. 6 of the Specification. The amendments are believed to overcome the Examiner's rejection, and reconsideration and withdrawal of the same is respectfully

solicited.

Response to Rejections Under Section 103(a)

Claims 1 and 9 have been amended to more clearly claim the subject matter of the present invention without adding new matter. Support exists for the substantive amendments at least in Specification paragraphs 0028, 0029 and 0064, and Figure 6 of the drawings as originally filed.

It is noted that the Examiner combines Silverman and Matsumura as the basis of all 103 rejections. However, the combination of Silverman and Matsumura does not support the section 103(a) rejection, since the respective cited references teach systems which work on different principles and effectively teach away from each other.

Specifically, Silverman teaches the examination of the anterior portion of a patient's eye. A target is displayed for the patient to view while the anterior portion of the eye is examined by use of an ultrasound probe. The ultrasound probe is not placed on the eye. Furthermore, the patient is instructed to follow the target as it moves to allow the probe to sufficiently obtain ultrasound echoes from the entire anterior portion of the patient's eye. Thus, in Silverman, the probe does not come into contact with the eye, the eye moves to follow a moving target, and the purpose of the invention is to measure the anterior portion of the patient's eye.

In contrast, Matsumura discloses an apparatus for measuring the axial length of the eye and a calculator for correcting inaccurate measurements due to the depression of the cornea while the measuring device (ultrasound probe) is in contact with the eye. As noted, and in contrast to Silverman, Matsumura teaches placing the probe on the eye and measuring the axial length of the eye. Silverman discloses allowing the eye to move and measuring the anterior portion of the eye.

It would be illogical for a person of ordinary skill in the art at the time of the present invention to combine Matsumura with Silverman, because the teachings of Matsumura would conflict with the teachings of Silverman. For example, if the probe of Silverman was placed on the eye (as in Matsumura), the cornea would deform from the pressure and the measurement of the anterior portion of the eye would be incorrect. Also, if the probe of Silverman was placed on the eye as in Matsumura, the eye could not move in order to follow the tracking device (as taught in Silverman), or would at least be at severe risk of damage during movement. Thus, the combination of these two references would be illogical.

In the Office Action, Taenzer is combined with Silverman and Matsumura to support a

103(a) rejection for Claims 5-8. The argument above applies to the Examiner's rejection of these claims as well. Furthermore, Taenzer discloses the use of the probe in relation to a patient's skin and does not mention the eye or suggest that its device, or the pressures used by the Taenzer device, could be configured to work upon a body part as sensitive as a patient's eye. Thus, reliance on Taenzer appears to be based upon improper hindsight reasoning, using the Applicant's own disclosure as a roadmap for constructing this rejection.

In view of all of the foregoing, it is clear that the rejections under section 103(a) fail to establish a *prima facie* case of obviousness, especially in light of the present amendments to the claims, because the cited references actually teach away from their combination and would not teach or suggest the presently claimed invention to a person of ordinary skill in the art without the benefit of the teachings of the present application. These rejections therefore should be reconsidered and withdrawn.

In the Office Action, the Examiner requested that the Applicant indicate his intention with respect to invocation of section 112, paragraph 6 as relates to means-plus-function language. It is the Applicant's intent to invoke section 112, paragraph 6 in this particular instance.

In light of the foregoing amendments and remarks, the case is believed to be in condition for allowance. Prompt notification to this effect would be sincerely appreciated. If any matters remain that require further consideration, the Examiner is requested to telephone the undersigned at the number given below so that such matters may be discussed, and if possible, promptly resolved. The undersigned is acting at least under Rule 34, and is filing or will shortly file a Power of Attorney from the Applicant.

Respectfully submitted,

/R. Andrew Patty II/

R. Andrew Patty II
Reg. No. 38992
Attorney for Applicant
Sieberth & Patty, LLC
4703 Bluebonnet Boulevard
Baton Rouge, LA 70809
Telephone: 225-291-4600
Facsimile: 225-291-4606